

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION**

**L.M.**, a minor by and through his father and stepmother, Christopher and Susan Morrison,

*Plaintiff,*

v.

**TOWN OF MIDDLEBOROUGH;  
MIDDLEBOROUGH SCHOOL  
COMMITTEE; CAROLYN J.  
LYONS**, Superintendent of the Middleborough Public Schools, in her official capacity; and **HEATHER  
TUCKER**, acting Principal of Nichols Middle School, in her official capacity,

*Defendants.*

**CASE NO.: 23-cv-11111**

**Honorable Judge Indira Talwani**

**JOINT MOTION FOR ENTRY OF FINAL JUDGMENT**

Pursuant to Fed. R. Civ. P. 54(a), 56, and 65(a)(2), Plaintiff L.M. and Defendants Town of Middleborough, Middleborough School Committee, Carolyn J. Lyons, and Heather Tucker hereby move the Court to enter final judgment based on the factual record established through the preliminary injunction proceedings. In support of this motion, the Parties state as follows:

1. “A district court can convert a preliminary injunction order into a permanent injunction order and may do so without an evidentiary hearing where, as here, the parties agree that no hearing is necessary and where a hearing would serve little purpose.” *Me. Republican Party v. Dunlap*, No. 1:18-cv-00179-JDL, 2018 WL 11183911, at \*1 (D. Me. Aug. 3, 2018); *see also Shell Co. (P.R.) v. Los Frailes Serv. Station, Inc.*, 605 F.3d 10, 19 n.4 (1st Cir. 2010) (confirming that where “an evidentiary hearing would have served little purpose . . . the district court’s

conversion” of a preliminary injunction ruling into a permanent injunction ruling (“was not error”).

2. On June 16, 2023, this Court entered a Memorandum and Order [Doc. No. 51] denying Plaintiff’s Motion for a Preliminary Injunction [Doc. No. 12].

3. On June 23, Plaintiff filed a Notice of Appeal to the U.S. Court of Appeals for the First Circuit from this Court’s June 16 Order. [Doc. No. 53]. The Parties filed a Joint Motion to Stay Proceedings Pending Appeal [Doc. No. 57] on June 26. This Court set a July 12 hearing on that motion.

4. In advance of the hearing, the Parties agreed that, based on the factual record as established through the preliminary injunction proceedings, judgment as a matter of law is appropriate.

5. The Parties continue to dispute the proper legal outcome of Plaintiff’s constitutional claims. But they agree that further evidentiary hearings would serve little purpose and that the interests of the Parties—and resources of the Court—will be better served by an appeal from a final judgment rather than an interlocutory appeal that could be mooted by a final order or followed by an additional appeal.

6. During the hearing held on July 12, 2023, the parties notified the Court of their agreement described in Paragraphs 4 & 5 and asked that the Court convert its June 16 ruling [Doc. No. 51] into a final judgment without prejudice to any appeal by the Plaintiff, at which time the Court invited the parties to file the instant Motion.

## **CONCLUSION**

For the foregoing reasons, the parties request that the Court grant their joint motion to convert its June 16 ruling into a final judgment, without prejudice to any appeal by the Plaintiff.

Respectfully submitted this 17<sup>th</sup> day of July, 2023.

---

*s/ Gregg J. Corbo*

Deborah I. Ecker  
Gregg J. Corbo  
KP Law, P.C.  
101 Arch Street  
Boston, MA 02110  
617-654-1714  
617-556-0007  
Fax: 617-654-1735  
decker@k-plaw.com  
gcorbo@k-plaw.com

Garrett A.D. Gee  
John M. Simon  
Kay H. Hodge  
Stoneham, Chandler & Miller LLP  
99 High Street  
Boston, MA 02110  
740-644-9406  
617-542-6789  
Fax: 617-556-8989  
ggee@scmllp.com  
jsimon@scmllp.com  
KHodge@scmllp.com

*Attorneys for Defendants*

---

*s/ P. Logan Spena*

David A. Cortman\*  
GA Bar No. 188810  
ALLIANCE DEFENDING FREEDOM  
1000 Hurricane Shoals Rd. NE  
Suite D-1100  
Lawrenceville, GA 30043  
Telephone: (770) 339-0774  
dcortman@ADFlegal.org

Tyson C. Langhofer\*

VA Bar No. 95204  
P. Logan Spena\*  
VA Bar No. 98407  
ALLIANCE DEFENDING FREEDOM  
44180 Riverside Parkway  
Lansdowne, Virginia 20176  
Telephone: (571) 707-4655  
tlanghofer@ADFlegal.org  
lspena@ADFlegal.org

Andrew Beckwith  
MA Bar No. 657747  
MASSACHUSETTS FAMILY  
INSTITUTE  
401 Edgewater Place, Suite 580  
Wakefield, MA 01880  
Telephone: (781) 569-0400  
andrew@mafamily.org

*Attorneys for Plaintiff*

*\*Admitted Pro Hac Vice*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 17<sup>th</sup>, 2023, I electronically filed the foregoing using the CM/ECF system, which automatically sends an electronic notification with this filing to the following attorneys of record:

Deborah I. Ecker  
Gregg J. Corbo  
KP Law, P.C.  
101 Arch Street  
Boston, MA 02110  
617-654-1714  
617-556-0007  
Fax: 617-654-1735  
decker@k-plaw.com  
gcorbo@k-plaw.com

Garrett A.D. Gee  
John M. Simon  
Kay H. Hodge  
Stoneham, Chandler & Miller LLP  
99 High Street  
Boston, MA 02110  
740-644-9406  
617-542-6789  
Fax: 617-556-8989  
ggee@scmllp.com  
jsimon@scmllp.com  
KHodge@scmllp.com

Dated: July 17, 2023

*s / P. Logan Spena*

---

P. Logan Spena

*Attorney for Plaintiff*